

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE COUNTY OF PIMA

PARTIES

THIS AGREEMENT, entered into June 16th, 1981, pursuant to Arizona Revised Statutes Section 11-951 through 11-954, as amended, by and between the State of Arizona, acting by and through the Arizona Department of Transportation (the "State"), and the County of Pima (the "County").

STATUTORY AUTHORIZATION

WHEREAS, the State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and the Director of the Department of Transportation has by that certain resolution attached hereto as Exhibit "A" and incorporated herein by reference resolved to enter into this agreement; and

WHEREAS, the County is empowered by Arizona Revised Statutes Section 11-251 to enter into this agreement and its Board of Supervisors has by that certain resolution attached hereto as Exhibit "B" and incorporated herein by reference resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the County; and

PURPOSE

WHEREAS, in accordance with its flood plain ordinance and responsibilities, the County desires to use a portion of the State's existing ditch, dyke and drainage easements within the Rillito River adjacent to Oracle Road (U.S. Highway 89); and

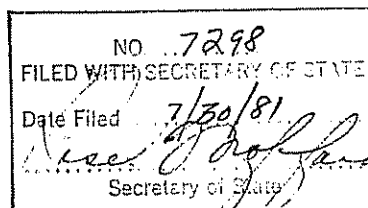
WHEREAS, both parties wish to set forth their respective responsibilities relating to the use and maintenance of the easement areas;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter to be kept by all parties, it is mutually agreed as follows:

METHOD

1. The State hereby grants to the County a perpetual right to construct and maintain a ditch and dyke for flood control purposes together with the right of ingress and egress for said purposes over that certain real property in Pima County, Arizona, described in the attached Exhibit "C" (the "flood control area"), subject to the following terms and conditions:

a. No activity shall be conducted within the flood control area which would interfere with the usefulness or structural integrity of the U.S. Highway 89 bridge structure, nor shall any activity be conducted within the flood control area which would interfere with the light, air and view of motorists utilizing the bridge structure according to its design.



b. The County shall bear all costs for additional improvements to the flood control area, and at its own cost and as an annual item in its budget, shall provide for proper maintenance of all improvements within the flood control area.

c. The County hereby agrees to save the State and its agents or employees harmless from all liability however arising to any and all persons, whether for personal injuries or otherwise and from any claim of any person of damage to or loss of property by reason of the County's development, use and maintenance of the flood control area or by reason of any thing done or permitted to be done or omitted from being done by the County in and about the flood control area. In the event that both parties are negligent, each party shall have the right of contribution against the other. *E.S.W. 7-27-81*

d. The State reserves the right to perform any work within the flood control area necessary to maintain an even channel bottom or otherwise protect the U.S. Highway 89 bridge structure and roadway.

2. The County hereby grants to the State a perpetual right of ingress and egress for the purposes of performing any work necessary to protect the U.S. Highway 89 bridge structure and highway, over any County lands lying adjacent to the flood control area.

DURATION AND TERMINATION

THIS AGREEMENT shall be perpetual. All parties are hereby put on notice that this agreement is subject to cancellation by the Governor, pursuant to Arizona Revised Statutes Section 38-511.

FILING WITH SECRETARY OF STATE

THIS AGREEMENT shall be filed with the Arizona Secretary of State and shall become effective upon filing.

IN WITNESS WHEREOF, the parties have executed this agreement the date first written above.

COUNTY OF PIMA

STATE OF ARIZONA

ARIZONA DEPARTMENT OF TRANSPORTATION

By: *E.S. Walker*
VICE-
Title: CHAIRMAN OF THE BOARD
OF SUPERVISORS


By: *W.A. Ordway*
W. A. ORDWAY, Director

Exhibit "A"

RESOLUTION

BE IT RESOLVED on this 13TH day of April, 1981, that I, W. A. ORDWAY, Director of the Arizona Department of Transportation, have determined that, pursuant to Arizona Revised Statutes Section 28-103, it is in the best interests of the State of Arizona for the Department of Transportation to enter into an intergovernmental agreement with Pima County for the joint use of ditch, dyke and drainage easements within the Rillito River adjacent to Oracle Road (U.S. Highway 30-89).

THEREFORE, authorization is hereby given to draft said agreement which, upon completion, shall be returned for approval and execution.


W.A. ORDWAY, Director
Arizona Department of
Transportation

RESOLUTION NO. 1981 - 91

RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS
AUTHORIZING THE CHAIRMAN TO SIGN AN INTERGOVERNMENTAL
AGREEMENT WITH THE STATE OF ARIZONA FOR THE USE OF
A PORTION OF THE ORACLE ROAD BRIDGE RIGHT-OF-WAY,
FOR DRAINAGE PURPOSES

WHEREAS, pursuant to A.R.S. § 11-257 the Pima County Board
of Supervisors has responsibility to prevent or mitigate flood
damage to property; and

WHEREAS, the State of Arizona, within the Rillito River and
within the State-owned right-of-way for Oracle Road and Oracle
Road Bridge, State Highway 89, has certain ditches, dykes and
drainage easements which are necessary for drainage purposes; and

WHEREAS, Pima County wishes to improve said facilities.

NOW, THEREFORE, upon motion duly made, seconded and carried,
it is hereby resolved as follows:

RESOLVED:

That the Chairman of the Board be, and hereby is, authorized
and directed to sign that certain Intergovernmental Agreement
between the State of Arizona and Pima County--(AG Contract No.
81-245), which provides that Pima County may use a portion of the
State's existing ditch, dyke and drainage easements within the
Rillito River adjacent to Oracle Road, U. S. Highway 89.

PASSED AND ADOPTED this 16th day of June, 1981.

PIMA COUNTY BOARD OF SUPERVISORS

E.S. Walker
VICE-Chairman

ATTEST:

Eugenia H. Halls
Clerk, Board of Supervisors

APPROVED AS TO FORM:

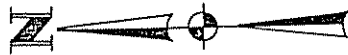
John R. Neubauer
Deputy County Attorney

EXHIBIT "C"

Those portions of the Southwest quarter (SW $\frac{1}{4}$) of Section 13 and of the Northwest quarter (NW $\frac{1}{4}$) of Section 24, Township 13 South, Range 13 East, Gila and Salt River Meridian, Pima County, Arizona, described as follows:

Beginning at the point of intersection of the section line common to said Sections 13 and 24 with the easterly line of an existing drainage easement, which point bears North 89° 11' 20" East 192.40 feet from the West corner common to said Sections 13 and 24; thence along said easterly line the following four (4) courses: (1) North 0° 24' 30" West 252.66 feet; (2) from a Local Tangent Bearing of South 76° 24' 28" East along the arc of a curve to the Right having a radius of 1809.34 feet, a distance of 473.67 feet; (3) North 28° 35' 30" East 100.52 feet; and (4) from a Local Tangent Bearing of North 61° 35' 52" West along the arc of a curve to the Left having a radius of 1909.86 feet, a distance of 620.72 feet to the existing easterly right of way line of U.S. Highway 89 (TUCSON-ORACLE JCT.-GLOBE HIGHWAY); thence South 0° 24' 30" East along said easterly right of way line, a distance of 543.43 feet to the Southwest corner of said drainage easement; thence North 89° 35' 30" East along the southerly line of said drainage easement, a distance of 100.00 feet to the Southeast corner of said drainage easement; thence along the easterly line of said drainage easement the following five (5) courses: (1) North 0° 24' 30" West 37.00 feet; (2) South 60° 24' 30" East 321.13 feet; (3) North 29° 35' 30" East 100.00 feet; (4) North 60° 24' 30" West 378.87 feet; and (5) North 0° 24' 30" West 15.09 feet to the point of beginning.

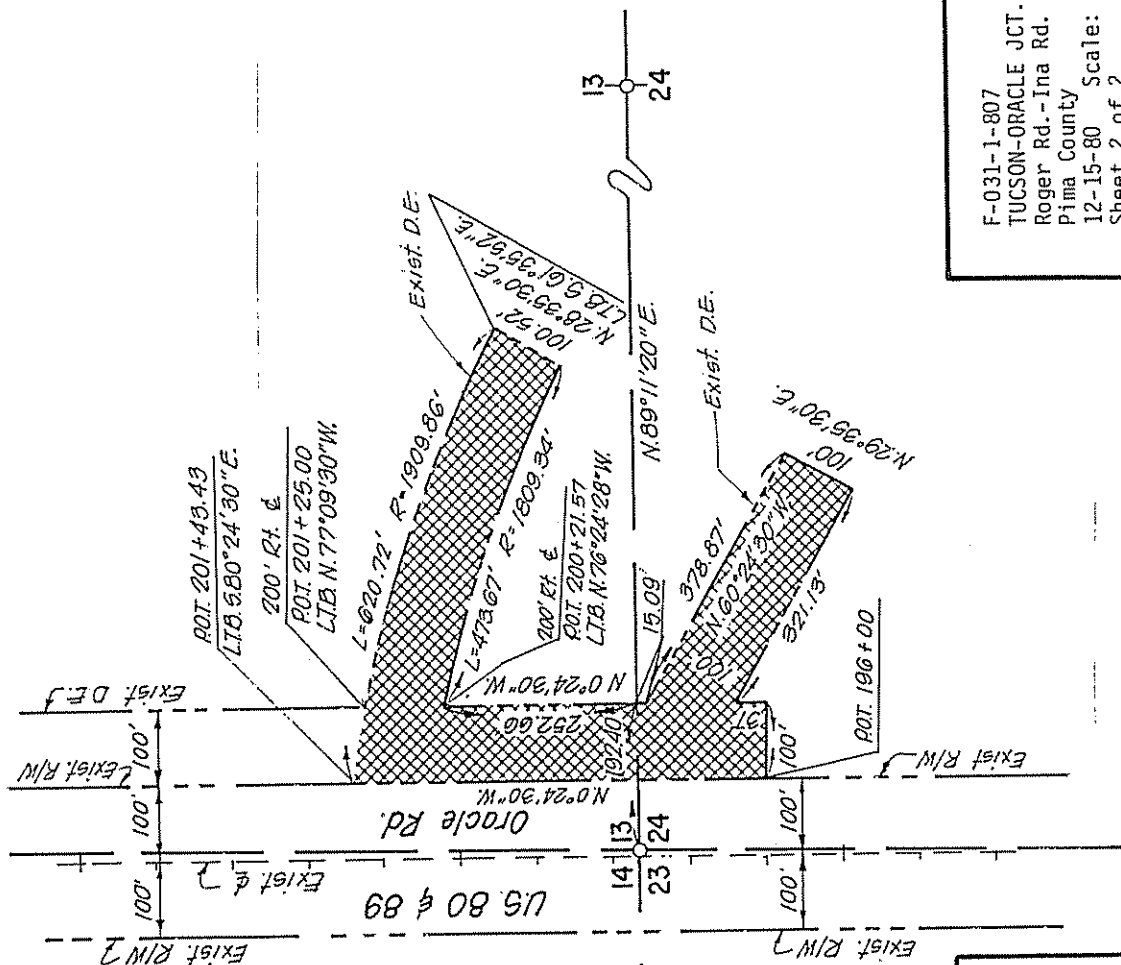
205



T. 13 S. R. 13 E.

200

195



F-031-1-807
TUCSON-ORACLE JCT.-GLOBE HWY.
Roger Rd.-Ina Rd.
Pima County
12-15-80 Scale: 1"=200'
Sheet 2 of 2

Information on this plat was
obtained from R/L Map Co.
D-10-T-306.

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

I have reviewed the proposed intergovernmental agreement between the State of Arizona and Pima County, Arizona, which agreement grants Pima County the use of a portion of the State's existing ditch, dyke, and drainage easements within the Rillito River adjacent to Oracle Road (U.S. Highway 80-89). I have determined that said proposed intergovernmental agreement is in proper form and is within the powers and authority granted to Pima County and its agencies under the Laws of the State of Arizona. My review was pursuant to A.R.S. § 11-952.

Dated this 19TH day of May, 1981.

STEPHEN D. NEELY
PIMA COUNTY ATTORNEY

By John R. Neubauer
John R. Neubauer
Deputy County Attorney



OFFICE OF THE
Attorney General

1801 WEST JEFFERSON STREET
FOURTH FLOOR
PHOENIX, ARIZONA 85007

ROBERT K. CORBIN
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 81-245, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 9th day of July, 1981.

ROBERT K. CORBIN
Attorney General

A handwritten signature in cursive script, reading "James R. Helgeson".

Assistant Attorney General
Transportation Division